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COMMITTEE AGAINST TORTURE

Sixteenth session

SUMMARY RECORD OF THE PUBLIC PART* OF THE 250th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 2 May 1996, at 3 p.m.

Chairman: Mr. DIPANDA MOUELLE

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Second periodic report of Finland (continued)

* The summary record of the closed part of the meeting appears as document CAT/C/SR.250/Add.1

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Second periodic report of Finland (CAT/C/25/Add.7; HRI/CORE/1/Add.59)

1. At the invitation of the Chairman, Mr. Lang, Mr. Lehmus and Mr. Sintonen (Finland) took places at the Committee table.

2. Mr. LANG (Finland) said that a number of questions had been asked about Finland's definition of torture, which was very abstract since it was designed to cover as many situations as possible. He agreed that a specific definition offered a possibility to educate and to obtain precise information, and would convey to his Government the Committee's message to that effect. Finland's legal concepts were similar to those of the continental legal system, so no difficulties arose in respect of international cooperation in matters of torture.

3. Although no dangerous habitual criminal had been placed in preventive detention for more then 20 years, that form of punishment was still on the statute book and legislative reform would be needed to amend the definition of such criminals.

4. The Romanies were not discriminated against or recorded separately in population registers. New legislation on fundamental civil and political rights covered the minority rights of both the Sami and Rom peoples, because Gypsies had lived in Finland for centuries and were so well integrated that they were regarded as indigenous.

5. As for the question about the prison officer who had made derogatory remarks concerning a Somali rapist, the Minister of Justice had advised against prosecution, because the case would have involved the issue of freedom of speech and would have had little prospect of success. Immediate disciplinary action had, however, been taken and a severe reprimand issued.

6. Solitary confinement could be ordered either as a disciplinary measure, or as a preventive security measure to protect staff, other prisoners or the detainee himself. When such confinement was preventive, it could last for an indefinite period but was strictly regulated and the position had to be reviewed monthly. The Ombudsman had asked for further clarification of the legislation on the subject. Solitary confinement for disciplinary reasons was subject to review at regular, specified intervals.

7. If a State official had committed torture, there was no maximum limit to the victim's compensation, payment of which was the responsibility of the State. If a private individual committed an assault leading to grievous bodily harm, the ceiling for damages was approximately $50,000.

8. Before 1948, the legal evidence theory had been applicable in Finland, which meant that certain types of evidence could not be accepted by the courts. Since that date, however, free evaluation of evidence had brought Finland into line with the continental legal system. While no evidence was

automatically excluded, evidence obtained by inadmissible means had never been allowed by the courts. In practice, the last case involving torture had been heard by the courts in 1946.

9. His last comment concerned the holding of asylum-seekers in prisons under the same conditions as common criminals. While conditions were better in the prisons than in police stations or some other types of accommodation, he agreed that the situation was unsatisfactory. The problem was that, for Finland, a large influx of immigrants was unprecedented.

10. Mr. LEHMUS (Finland), replying to Mr. Yakovlev's question concerning the investigation of crimes allegedly committed by the police, said that a district court reform was imminent whereby the lower prosecution service, which had previously formed part of the police, would become an independent service. There had been no evidence of any malpractice or lack of objectivity but the purpose of the reform was to enhance the public's trust in the prosecution service. Pending the reform, investigation of crimes allegedly committed by police officers could be headed by specially appointed city public prosecutors, who would be notified of any such allegations.

11. With respect to Mr. Regmi's question concerning possible police bias in conflicts between the Finnish majority population and foreigners or members of minorities, he said that the only case to date had been thoroughly investigated by the deputy Ombudsman, who had found that the police had not acted unlawfully. One police officer who had used improper language had been severely reprimanded, and instructions had been issued concerning the appropriate language to be used when handling such cases. Some manifestations of racism and xenophobia had recently occurred in Finland for the first time. The problem was being taken very seriously by the authorities, and everything possible was being done to combat it.

12. Replying to the question asked by Mr. Burns and Mrs. Iliopoulos-Strangas, he said that administrative custody measures could be applied to aliens seeking to enter the country in cases where there was a need to verify their identity. He agreed that, following the recent reform of the Constitution, there might well be need to establish a new procedure for handling administrative custody cases, in order to ensure that decisions were taken on a legal rather than an administrative basis.

13. On the point raised by Mr. Burns concerning paragraph 78 of the report, the text should in fact read "... the person who has been detained or arrested should be provided with an opportunity to select an attorney ...".

14. Mr. Sørensen had asked whether there were legal safeguards against the mistreatment of prisoners in police custody, and whether relatives of a detainee were informed. In exceptional cases only the detainee's right to have relatives informed was not respected if, for instance, the police believed that the relatives were involved in the same crime. As for the question regarding the procedure followed during medical examinations, the police officer would not normally be in the same room but would observe the examination from behind a window in an adjacent room so that he could not hear what was being said.

15. Mr. Pikis had asked whether foreigners had the right to counsel when dealing with the authorities. Article 1 of the recently amended Aliens Act stated that provisions enacted by virtue of international agreements by which Finland were bound had to be applied to aliens' entry into and departure from Finland, as well as to their residence and employment in the country. The decision to refuse entry would be made by the passport control authorities, border guards, or customs authorities.

16. Under the same Act, the criteria used for deportation from Finland were: presence in the country without a valid passport, visa or residence permit; lack of means of support, conviction of an offence carrying a minimum penalty of one year's imprisonment; repeated law-breaking; behaviour endangering the safety of others; and engagement in sabotage, espionage or activities endangering Finland's relations with a foreign country. There was an opportunity to appeal against all such decisions, either to the provincial administrative court, the asylum appeals board, or the supreme administrative court.

17. In reply to the question from Mr. Pikis as to the outcome of cases involving accusations of malpractice by the police, he said that, in a very few instances only, investigations had resulted in charges being brought; generally speaking, no further measures had been found necessary

18. On the right to silence, a person accused of an offence had the right to remain silent if a statement was likely to incriminate him. In addition, witnesses had the right to remain silent when the case concerned a near relative. During the pre-trial investigation, both suspects and witnesses were informed of that right before any interrogation began.

19. In reply to a question by Mrs. Iliopoulos-Strangas, he said that a person taken into custody had the right to use his or her own language and to be provided with an interpreter.

20. Mr. SINTONEN (Finland), replying to questions raised concerning patient rights and mental health legislation in connection with paragraph 102 of the report, said that, in Finland, mental-health and other health-care legislation was applicable in the prisons also. All three of the criteria listed in paragraph 105 had to be met for a person to be subjected to involuntary psychiatric treatment.

21. A question had been asked about the confinement of prisoners on mental grounds. If involuntary treatment of a prisoner was considered necessary, the decision would be taken by the hospital or health-care unit after a period of observation. The patient was entitled to appeal against the decision to the administrative court within 14 days.

22. Mr. LANG (Finland) said, with reference to paragraph 120 of the report, that the police maintained a special computerized register of the Romany population, not because they were Romanies but because they had committed crimes. Keeping such crime registers was standard practice in most countries.

23. Some questions had been asked about the so-called "safe country" policy. One difficulty in applying that policy was that it might seem to offer

excessive guarantees to entire populations. Another difficulty was that, although it was perfectly easy to put a country on the "safe" list, it was less so, from the diplomatic point of view, to put a country on the "unsafe" list, because of the message it gave the international community. One criterion used in applying that policy in the past had been that all countries members of the Council of Europe were "safe", because they were subject to the rule of law. The situation had become rather more complicated since many of those countries were currently faced with armed conflicts, either on their borders or internally.

24. To combat torture, it was essential to give all possible support not only to the right of victims of officially-accepted mistreatment to proper treatment and compensation, but also to the rule of law in general, since only the rule of law could ensure that the world would eventually become a safer place for all its inhabitants.

25. The CHAIRMAN, having thanked the Finnish delegation for its comprehensive replies to the questions posed, asked whether Finland had considered making a contribution to the Voluntary Fund for Victims of Torture.

26. Mr. LANG (Finland) said that, although his delegation was not in a position to pledge an immediate contribution, he would not fail to convey the message to his Government.

27. Mr. SØRENSEN said that, in the first 10 years of the Fund's existence, Finland had made the largest contributions, its record in that regard being very impressive.

The public meeting was suspended at 4.15 p.m. and resumed at 5.55 p.m.

28. Mr. YAKOVLEV (Country Rapporteur) read out the conclusions and recommendations of the Committee on the second periodic report of Finland:

"Conclusions and recommendations of the Committee against Torture

FINLAND

1. The Committee considered the second periodic report of Finland (CAT/C/25/Add.7) at its 249th and 250th meetings, on 2 May 1996 (see CAT/C/SR.249 and 250) and adopted the following conclusions and recommendations:

A. Introduction

2. The Committee welcomes the detailed report of the Government of Finland outlining the new measures and developments relating to the implementation of the Convention in Finland which have taken place in the State party since its submission of the initial report in October 1990. The Committee also welcomes the core document (HRI/CORE/1/Add.59) submitted by the Government, providing a country profile of Finland. The report has been prepared in accordance with the guidelines established by the Committee and provides the additional information which had been requested by the Committee.

B. Positive aspects

3. The Committee has not received any information on allegations of torture in Finland.

4. The Committee takes note with satisfaction of the important steps taken by the State party to develop further the legislative measures relating to the implementation of the Convention. Among these measures, the Committee noted with particular satisfaction the amendment of the Constitution to incorporate the prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

5. The Committee also considers it important that the amendment introduces at the highest legislative level the "normality principle", according to which the conditions in places of detention must be similar as far as possible to those existing in the community at large.

6. The incorporation in the Preliminary Investigation Act of detailed provisions concerning the correct procedure for interrogation is also a matter of satisfaction.

7. The Committee further considers as an important event the establishment of the Rehabilitation Centre for Torture Victims.

8. The Committee takes note with satisfaction of the intention of the Finnish Government to abolish the system of administrative detention.

C. Subjects of concern

9. In the criminal law of Finland, there is no provision containing a specific definition of torture.

10. Under Finnish law, there is no provision specifically prohibiting the use of statements obtained under torture in judicial proceedings. The Committee considers that such a provision could constitute a strong preventive measure against acts of torture.

11. Although the abolition of preventive detention for dangerous recidivists has been applied in practice, there is no information on initiatives taken by the Finnish authorities to modify the relevant provisions in the Dangerous Recidivists Act.

12. The Committee is concerned about the absence of sufficient legal protection for the rights of persons who are denied asylum by the establishment of a list of safe countries in the Immigration Act of Finland.

D. Recommendations

13. The Committee recommends that the State party incorporate into its legislation the definition of torture as a specific crime committed by a public official or other person in an official capacity, in accordance with article 1 of the Convention, considering as insufficient the definition of assault provided in the Criminal Code of Finland.

14. The completion of the procedure for the abolition of preventive detention is also recommended.

15. The establishment of an independent agency to investigate offences allegedly committed by the police, a question which is now under consideration in Finland, is likewise considered advisable by the Committee.

16. The Committee supports the idea of reinforcing the office of the Immigration Ombudsman and establishing an office of a special human rights ombudsman in the State party.

17. The Committee recommends that legal protection be provided to those asylum-seekers who are sent back to a country included in the list of safe countries by decision of the competent authority. Decisions on expulsion, return (refoulement) or extradition should take into account the provisions of article 3 of the Convention.

18. The Committee recommends that a special provision be incorporated into the State party's criminal procedure concerning the exclusion from judicial proceedings of evidence which has been obtained, directly or indirectly, as a result of torture, as provided for by article 15 of the Convention."

29. Mr. LÅNG (Finland) said that his delegation would transmit the conclusions and recommendations to its Government and report on its highly instructive and professional dialogue with the Committee. It would also call a press conference on its return to Finland so as to give the widest possible publicity to the meeting and its outcome.

30. The CHAIRMAN thanked the delegation for its responsive and open-minded collaboration and for the wide-ranging information it had given the Committee.

The meeting rose at 6.05 p.m.